

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2185 of 1986

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT Sd/-

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?  
No

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NAUTAMLAL K DAVE

Versus

JUNAGADH NAGAR PALIKA

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Appearance:

M/S TRIVEDI & GUPTA for Petitioners

MR ARUN H MEHTA for Respondent No. 1

MR BY MANKAD AGP for Respondent No. 2.

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 12/09/96

ORAL JUDGEMENT

1. The petitioner is the union of employees serving  
under the respondent Junagadh Municipality. The  
administrator of the Junagadh Municipality, on 1.3.84,  
entered into a settlement with the employees of the

Municipality and agreed to pay medical allowances to the employees of the municipality in accordance with such allowances paid by the Government to its employees. However, said settlement was not implemented. Feeling aggrieved, the petitioner union approached this Court by filing petition being special civil application no. 685 of 1986. In view of the directions issued by this Court on 4th February, 1986 directing the respondent municipality to consider the representation made by the petitioner union, said petition came to be withdrawn. In view of the said directions, fresh representation was made to the municipality on 5th February, 1986 and the union reiterated its claim for grant of medical allowance in accordance with the settlement arrived at on 1st March, 1984. Said representation was considered by the Municipality and under its communication dated 5th April, 1986, the President of the respondent Municipality informed the petitioner-union that in view of the financial constraints experienced by the municipality, and also in view of the prevalent need for maintenance of water supply, the municipality was not in a position to shoulder financial burden of medical allowance as claimed by its employees.

2. Feeling aggrieved by the aforesaid communication, the petitioner union has, once again approached this Court by filing this petition and has claimed that the employees of the respondent Municipality be paid medical allowance, as agreed by the Administrator of the Municipality earlier, with effect from 1.1.84.

3. In view of the financial constraints experienced by the respondent Municipality at the relevant time, the claim of the petitioner for grant of medical allowance to the employees of the respondent Municipality with effect from 1.1.84 was refused. In the circumstances, the respondent Municipality cannot be directed to pay medical allowance to the members of the petitioner union irrespective of its financial position.

4. In the circumstances, it would be expedient for the petitioners to make representation to the State of Gujarat in the subject matter of this petition. If such representation is made by the petitioner, the Government shall consider and decide the same and take appropriate decision after hearing the President or the Secretary of the petitioner Union and respondent No.1 Municipality. If the Government comes to the conclusion that the respondent No.1 Municipality is financially viable to grant benefit of medical allowance to its employees, it should also decide the date from which such benefit

should be extended to the employees of the respondent  
No.1 Municipality.

5. Petition is allowed to the aforesaid extent.  
Rule is made absolute accordingly with no order as to  
costs.

12.9.1996.                      \*\*\*\*\*  
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